

1

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 ZEMENCO, INC.,           :  
4       Plaintiff           :  
5                           :  
6           v.           : No. 03-175-Erie  
7                           :  
8       DEVELOPERS DIVERSIFIED   :  
9       REALTY CORPORATION,       :  
10      Defendants           :

11           Emergency Motion via telephone in the  
12           above-captioned matter held on Friday, July 15, 2005,  
13           commencing at 10:45 a.m., before the Honorable Sean  
14           J. McLaughlin, 17 South Park Row, Room A250, Erie,  
15           PA 16501,

16  
17   For the Plaintiff:

18       Joseph a. Katarincic, Esquire

19 One Oxford Centre  
301 Grant Street, 14th Floor  
20 Pittsburgh, PA 15219

21 For the Defendant:

22 W. Patrick Delaney, Esquire  
MacDonald Illig Jones & Britton, LLP  
23 100 State Street, Suite 700  
Erie, PA 16507

24

25 Reported by Sonya Hoffman  
Ferguson & Holdnack Reporting, Inc.

2

1 THE COURT: I planned to get you on the line  
2 because we have an emergency motion to compel the  
3 filing of a concise statement of material facts.

4 MR. KATARINCIC: Judge, if I may, we have spoken  
5 about this, Counsel and I, and I told him I would  
6 prepare such a statement, even though it wasn't  
7 filed with the new motion for summary judgement.

8 And I have a draft and I've told him I would file  
9 it today -- by the end of today. The question  
10 then becomes when his response to it be required.

11 I can tell you the draft will be 25 paragraphs

12 long.

13 THE COURT: As a practical matter, I don't need a  
14 concise statement of the material facts. So as  
15 far as I'm concerned, I've read the briefs, I  
16 intend to read them again, and I consider it  
17 unnecessary. So, I guess, that takes care of  
18 Defense counsel's problem as well.

19 MR. DELANEY: I was not aware that he was going to  
20 file one. If he's going to file it today or so,  
21 that's fine. I wouldn't have gone through with  
22 the call, that's fine. And I'll file mine 10 days  
23 later.

24 THE COURT: We'll just move ahead, and we'll see  
25 you all here --

3

1 MR. DELANEY: The 28th, I think.

2 THE COURT: Thank you. That's all.

3

4 (Hearing concluded at 10:47 a.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25